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10  
11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**  
13

14 United States of America,

15 Plaintiff,

16 vs.

17 David Allen Harbour,

18 Defendant.

Case No. CR-19-00898-PHX-DLR(DMF)

**JOINT STATUS REPORT**

19 The Court ordered the parties to submit a joint status report no less than three days  
20 prior to the status conference scheduled for September 20, 2021. [Doc. 240.] The parties  
21 agree that the status conference is necessary to apprise the Court of new developments in  
22 the case.

23 **I. Discovery Process**

24 Since the last status report, the Government has continued to disclose modest  
25 amounts of additional discovery. Mr. Harbour is still awaiting production of documents  
26 pursuant to third-party subpoenas. The parties will likely need to confer regarding the status  
27 of discovery soon.

28 **II. Jencks Act Information**

Consistent with the scheduling order, if the Government obtains additional Jencks  
Act material, it will disclose those materials to Mr. Harbour as soon as practicable or at  
least thirty days prior to trial. Witness interviews and trial preparation are ongoing, and

1 once those statements are adopted, they will be disclosed consistent with the Government's  
2 obligation.

### 3 **III. Plea Offer**

4 On February 19, 2021, the Government sent a plea offer package to Mr. Harbour's  
5 counsel. On March 19, 2021, Mr. Harbour rejected the plea offer.

### 6 **IV. Defense Position**

7 Mr. Harbour intends to file a motion to vacate the current trial date prior to the  
8 September 20 status conference so that the Court and the Government may review the  
9 motion and address it if necessary. Mr. Harbour's counsel has already briefly discussed the  
10 reasons for the motion to vacate with the Government.

11 Mr. Harbour is aware of witness interviews that the Government has not yet  
12 disclosed because the witnesses have not adopted the statements therein. Mr. Harbour  
13 recalls the Government mentioning these interviews during the first status conference held  
14 on February 3, 2020. Mr. Harbour expects the Government to disclose these witness  
15 interviews and any accompanying documents in a timely manner. Following the  
16 Government's November 23, 2020 superseding indictment, and pursuant to the Court's  
17 October 22, 2020 scheduling order, Mr. Harbour expects that the Government has added  
18 all relevant charges related to the purported scheme that is the subject of this criminal  
19 matter.

### 20 **V. Government's Response**

21 The current trial date is more than four months away. It is premature to vacate that  
22 trial setting. The Government also objects to the open-ended continuance that that it  
23 understands Defendant will request. This case is ready to proceed to trial on January 25,  
24 2021. Defendant was indicted in July 2019, and the government brought additional charges  
25 in November 2020. Defendant's charged conduct occurred between January 2010 and July  
26 2019. Further delay is not in the interests of justice. It will inconvenience the Court, the  
27 Government, the Defendant's victims, and will not serve a useful purpose.

The Government intends to disclose any remaining discovery in its possession before January 1, 2022. However, it is likely that some Jencks Act material will be disclosed shortly before trial (30 days) depending on the status of trial preparation and witness meetings that have been impacted by the COVID-19 pandemic.

# **VI. Meet and Confer Regarding Discovery**

When requested by Mr. Harbour, the Government is willing to meet with his counsel telephonically or in person to further review discovery and answer any questions about specific discovery relevant to their client.

RESPECTFULLY SUBMITTED this 15th day of September, 2021.

WEISS BROWN

By: /s/ Alan Baskin

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## **CERTIFICATE OF SERVICE**

I hereby certify that on September 15, 2021, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing.

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